HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION (F) NO.1741 OF 2005.
IN
CIVIL APPLICATION NO. 4304 OF 2004.
IN
FIRST APPEAL(st.) NO. 30554 OF 2004.

Smt. Manjula Shukanraj Palresha
& two others. ..Applicants.

Versus.

New India Assrance Co., Ltd
& Anr. ..Respondents.

Mr. Sachindra B. Shetye for the applicants.

Mr. S.M.Vidhyarthi for the respondent No.1.

CORAM: S.B.MHASE &
D.B.BHOSALE, JJ.

DATE: APRIL 19, 2005.

P.C.

1. Heard both sides. This is application for withdrawal of the amount deposited by the Insurance Company towards the satisfaction of the impugned award passed by the Motor Accidents Claims Tribunal, Thane. The total amount deposited in this court is Rs.12,43,176/-. Out of the said amount, Rs.5,000/- has already been withdrawn as a litigation cost, as per the orders of this Court.

2. Learned counsel Shri. Shetye for the applicants submits that the total amount be released in favour of the applicants. However, the learned counsel for the Insurance

Company strongly opposes for allowing withdrawal of the total amount.

3. Member, Motor Accidents Claims Tribunal, Thane in its award dated 14.6.2004 has directed that the amount of Rs.2.50 lacs shall be deposited in the name of each of the minor children, i.e., applicant Nos. 2 & 3 herein, in the fixed deposit in the Nationalised Bank till they attend the age of majority. It is further directed that out of the amount which is payable to the applicant No.1- wife, a sum of Rs.2.50 lacs be deposited in the Nationalised bank. In view these directions, we find that it is necessary to protect the interest of the minors. Equally, it is necessary to protect the interest of the appellant. We are, therefore, of the opinion that an amount of Rs.5 lacs be deposited in the name of minor children (Original Applicant Nos. 2 & 3) in the fixed deposit till they attend the age of majority and/or till the final disposal of the appeal whichever is later. After this exercise, the remaining amount shall be payable to the original applicant No.1 wife. However, out of that amount Rs.2.50 lacs shall be paid to her on her furnishing a solvent surety to the satisfaction of the Registrar (Judicial), High Court. Remaining amount shall be paid to her without any security.

Therefore, we pass following order.

O R D E R.

(1) An amount of Rs.2.50 lac shall be deposited in the name of each of the original applicant Nos. 2 & 3 in the nationalised bank till they attend the age of majority or till the final disposal of the appeal whichever event takes place later.

(2) Out of the remaining amount, Rs.2.50 lacs shall be released in favour of the original applicant No.1 - wife on her furnishing solvent surety.

(3) Rest of the amount shall be released unconditionally, without any surety in favour of the original applicant No.1 - wife.

(4) Civil Application accordingly stands disposed of.

(D.B.BHOSALE,J.) **(S.B.MHASE, J.)**

:srp/2005/